

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOSEPH M SPARKS.

Petitioner,

V.

UNKNOWN,

Respondent.

Case No. C08-5484RJB

ORDER

This matter is before the court on Petitioner's response to the Court's previous order, which directed him to either pay the filing fee or file a completed application for leave to proceed *in forma pauperis*.

Petitioner has not paid the filing fee nor did he file or submit a complete application for leave to proceed *in forma pauperis*. The court notes that Petitioner was not sent a copy of the forms to complete the IFP application with the last order. Accordingly, Petitioner should have one final opportunity to pay the filing fee or file a completed IFP application along with the appropriate documentation.

Petitioner shall either pay the filing fee or file a complete application to proceed in forma pauperis **by not later than November 10, 2008.** Otherwise, the court will recommend denial of his application and dismissal of the underlying matter as frivolous.

In addition, Petitioner should be aware that the underlying Petition contains certain deficiencies or errors. For example, the Petition fails to name an individual as Respondent. The Respondent in a habeas corpus petition is typically the authorized person having custody of petition. Also, the Petition indicates he

1 is challenging an underlying conviction dated January 19, 2007 from Cowlitz County in which Petitioner was
2 sentenced to 12 years and one day. However, in Petitioner's most recent pleading/letter Petitioner states he
3 served his time on that conviction, but was "violated" and kept in prison beyond his original sentence. It
4 appears under these allegations and statements Petitioner may be in custody pursuant to an additional crime
5 (possibly committed and convicted of while Petitioner was in prison) or his original sentence included a
6 suspended time, which was revoked due to a violation of some sort. Petitioner needs to clarify the confusing
7 statements, and he may need to file an Amended Petition to pursue his requested remedies.

8 The Clerks is directed to send a copy of this Order to Petitioner, along with the forms necessary to
9 complete and submit an application to proceed *in forma pauperis*.

10 DATED this 22nd day of October, 2008.

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12 /s/ J. Kelley Arnold
13 J. Kelley Arnold
United States Magistrate Judge
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